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JRW

Appl. No. : 09/828,015  
Confirmation No. : 6391  
Applicant : Robert Lawrence Prosise, et al.  
  
Filed : April 6, 2001  
Title : NUTRITIONALLY  
BALANCED SNACK FOOD  
COMPOSITIONS  
  
TC/A.U. : 1761  
Examiner : Helen Pratt  
  
Docket No. : 066544-9009-01

I, Mary A. Koceja, hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date of my signature.

Mary A. Koceja  
Signature  
2-21-05

Date of Signature

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

### INTERVIEW SUMMARY

Sir:

This summarizes the substance of telephonic interviews between the Examiner and the undersigned on May 3, 2004 pertaining to BACKER, T., Multifunktioneller FullstoffEine Weizenfaser Schafft Neue Moglichkeiten, Lebensmitteltechink, 1996, pgs. 58-59, Vol. 28, No. 5 Hamburg, Germany (the "Reference"). The undersigned and the Examiner discussed the status of the Reference as prior art in this application. In particular, the interview included a recounting of several events.

Applicant cited the Reference in an information disclosure statement (IDS) filed September 30, 2003. The Examiner acknowledged the Reference by initialing the IDS.

During prosecution of a related European application assigned to the assignee of the present application, the European Examiner also cited the Reference in the corresponding application. Consequently, the Applicant obtained a full English translation of the Reference in conjunction with prosecution of the European application. At that time, it came to the Applicant's attention that the Reference had been submitted erroneously only in the German language to the U.S. Patent Office, i.e., the Examiner did not have the benefit of the English language translation.

The undersigned communicated this information to the Examiner on May 3, 2004. The undersigned requested the Examiner's guidance regarding how to proceed with respect to the following patent applications, which the Examiner had examined, and for which an English translation of the Reference had not been provided: U.S. Application Nos. 09/828,016, 09/827,863, 09/827,802, 09,827,436, 09/828,018, and 09/828,015. The last three applications had already issued as U.S. Patent Nos. 6,720,015, 6,716,462 and 6,726,943, respectively, on April 6, 2004, April 13, 2004 and April 27, 2004. It was agreed that the undersigned would fax a copy of the English translation to the Examiner for her consideration. Accordingly, on May 3, 2004, the undersigned faxed a copy of the Reference to the Examiner.

On May 4, 2004, the Examiner, having reviewed the Reference, contacted the undersigned and left a voicemail, an excerpt from which has been transcribed and is set forth below:

This is Examiner Pratt at the Patent Office calling about that reference that you sent on like [Sic] the first case 09/828,016. It is a multi-functional filler material. I looked at the reference and it is, of course, to a fiber, but it doesn't give as claimed now the particle size or the water absorbency. I don't see how we can tell from that reference just what those things would be. You know they do put [it] into foods, but it doesn't give the other limitations of the claims – amino acid amount or amount of fat, so I don't think the reference would cause us to have to reopen prosecution.

U.S. Application No. 09/828,016 and the present patent each have claims reciting particle size, water absorbency, amino acid amount and amount of fat.

The Applicant agrees with the Examiner's conclusion that this reference did not justify reopening prosecution of the pending applications because, among other things, the Reference does not teach "the other limitations of the claims – amino acid amount or amount of fat." In the spirit of candor, the Applicant notes that the Reference discloses Vitacel, a dietary fiber known in the art. The Applicant's specification indicates that examples "of insoluble dietary fibers having an active level of at least 75%, a particle size less than 150 microns, preferably 50 microns and a water absorption of less than about 7.0 grams water per gram of fiber include: Vitacel ...." See, page 20.

The undersigned faxed a copy of the interview summary for U.S. Application No. 09/827,802 to the Examiner on July 26, 2004 for her review before formal submission. The Examiner approved the interview summary on July 27, 2004, and indicated similar interview summaries should be submitted for each of the other five applications identified above.

This patent had already issued at the time of the May 3, 2004 interview, the date on which a copy of the English translation of the reference was faxed to the Examiner. A copy of the English translation is again being submitted herewith.

Respectfully submitted,



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